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November 15, 2022

VIA CM/ECF

The Honorable Brian M. Cogan
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. David Levy, No. 1:16-cr-00640-BMC

Dear Judge Cogan:

We represent David Levy in the above-referenced matter. We write in response to the government's letter (ECF 978) objecting to the request from Mr. Levy's counsel to change the date of the "Loss" hearing due to a personal conflict (but not seeking to change Mr. Levy's sentencing date).

The government argues that Mr. Levy has repeatedly requested adjournments of his sentencing, thereby depriving victims and the public of a timely resolution of this matter. Such an argument is factually baseless.

The government cites three purported times when Mr. Levy sought to adjourn his sentence, citing ECF 881, 896 and 951. It has mischaracterized all three. In February 2022 (ECF 881), Mr. Levy's counsel submitted a letter *at the request of the Probation Department*, to adjourn Mr. Levy's sentence because the PSR had not been prepared. In May 2022 (ECF 896), Mr. Levy's counsel alerted the Court that the PSR had finally been prepared but that Mr. Levy's counsel was then engaged in a criminal trial, thus necessitating a short adjournment so that counsel could meet with Mr. Levy to address the PSR and then submit any needed response to the Probation Department. And finally, in August 2022 (ECF 951) Mr. Levy's counsel wrote to the Court to request that the hearing on "Loss" proceed with both Mr. Levy and Mr. Nordlicht in attendance – which the government had inexplicably opposed – specifically noting that Mr. Levy was *not* asking that his sentencing be adjourned.

The instant request is no different. Mr. Levy has *not* requested that his sentencing be adjourned. Rather, his counsel has requested that the "Loss" hearing be rescheduled to January 18, 19 or 20, if the Court is available. Mr. Levy, who is scheduled to be sentenced on January 27, 2023, at 10 am, has not requested that his sentencing be adjourned.

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Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI
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s/ Michael S. Sommer

Michael S. Sommer

Counsel for Defendant David Levy

cc: All Counsel of Record (via CM/ECF)